



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

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March 29, 2022

City of Brier
Attn: Dale Kaemingk
2901 228th Street SW
Brier, WA 98036

RE: Water Quality Certification Order No. 21056 for Corps Reference No. ~~NWS-2019-901~~ **NWS-2019-96, Brierwood Park Stormwater Pond Retrofit, in Snohomish County, Washington**

Dear Dale Kaemingk:

On February 17, 2022, the City of Brier submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Brierwood Park Stormwater Pond Retrofit, Snohomish County, Washington.

On behalf of the State of Washington, the Department of Ecology certifies that the work described in the Water Quality Certification Request and supplemental documents complies with applicable provisions of Sections 301, 302, 303, 306, and 307 of the Clean Water Act, as amended, and applicable state laws. This certification is subject to the conditions contained in the enclosed Order.

Please ensure that anyone doing work under this Order has read, is familiar with, and is able to follow all of the provisions within the attached Order.

If you have any questions about this decision, please contact Doug Gresham at (425) 429-1846 or send an email to Doug.Gresham@ecy.wa.gov. The enclosed Order may be appealed by following the procedures described within the Order.

Sincerely,

3/29/2022

Joe Burcar, Section Manager
Shorelands and Environmental Assistance Program
Northwest Regional Office
Department of Ecology

Date

Enclosure

Sent via email to: dkaemingk@ci.brier.wa.us

E-cc: Amanda Nadjkovic, Corps of Engineers
Jennifer Flathman, City of Brier
Todd Gray, Tulalip Tribe
Kelsey Payne, Snoqualmie Tribe
Amy Waterman, Stephanie Barney, Grant Yang, Rebekah Padgett, Amy Jankowiak: Ecology
ECYREFEDPERMITS@ECY.WA.GOV

IN THE MATTER OF GRANTING A) ORDER No. 21056
WATER QUALITY) Corps Reference No. ~~NWS 2019-901~~
CERTIFICATION TO) Brierwood Park Stormwater Pond Retrofit
City of Brier) located within Scriber Creek, City of Brier,
pursuant to 33 U.S.C. 1341 (FWPCA) Snohomish County, Washington
§ 401), RCW 90.48.120, RCW 90.48.260)
and Chapter 173-201A WAC)

City of Brier
Attn: Dale Kaemingk
2901 228th Street SW
Brier, WA 98036

On February 17, 2022, the City of Brier submitted a request for a Section 401 Water Quality Certification (WQC) under the federal Clean Water Act for the Brierwood Park Stormwater Pond Retrofit, in Snohomish County, Washington. On March 4, 2022, Ecology issued a public notice for the project.

This project proposes to retrofit an existing stormwater retention pond to improve surface water detention and treatment before it discharges to Scriber Creek. This involves excavating accumulated sediment deposits in the pond, constructing vegetated bio-retention cells, removing invasive and some native vegetation, and reestablishing the pond outlets and overflow structures. This will permanently impact 269 ft² of a Category I wetland, which will be mitigated by on-site enhancement of 3,228 ft² of wetland associated with Scriber Creek.

The project site is located near 2655 Elm Drive in Brierwood Park, City of Brier, Snohomish County, Washington, Section 26, Township 27 N., Range 4E., within Water Resource Inventory Area (WRIA) 8 Cedar-Sammamish.

With this WQC Order, Ecology is granting the City of Brier’s request for a Section 401 Water Quality Certification for the Brierwood Park Stormwater Pond Retrofit project, provided that the activity is conducted in accordance with the Section 401 Water Quality Certification request and attachments that Ecology received on February 17, 2022, and including the following supporting documentation:

Table 1. Supporting Documents

Date Received	Document Type	Title & Date	Author
February 8, 2022	Mitigation Plan	Critical Areas Report and Proposed Mitigation Plan for Brierwood Park Stormwater Pond Retrofit, dated August 9, 2019	Wetlands & Wildlife, Inc.
February 8, 2022	Mitigation Plan Drawing	Mitigation Plan Drawing for Brierwood Park Stormwater Pond	PACE Engineers

		Retrofit, dated July 2, 2019	
February 8, 2022	Review Comments	PACE Engineers response to permit comments by Corps of Engineers, dated September 1, 2021	PACE Engineers

Based on the information submitted, Ecology has determined that the discharge(s) from the project will comply with state water quality requirements. Prior to undertaking any changes that materially alter the project, the City of Brier must contact Ecology to determine whether a new Section 401 Water Quality Certification is required.

Issuance of this Section 401 Water Quality Certification for this proposal does not authorize the City of Brier to exceed applicable state water quality standards (Chapter 173-201A WAC), ground water quality standards (Chapter 173-200 WAC), or sediment quality standards (Chapter 173-204 WAC). Furthermore, nothing in this Section 401 Water Quality Certification absolves the Applicant from liability for contamination and any subsequent cleanup of surface waters, ground waters, or sediments resulting from project construction or operations.

Special Condition:

1. The City of Brier shall mitigate wetland impacts as described in the Mitigation Plan Drawing for Brierwood Park Stormwater Pond Retrofit, as identified in Table 1 or as modified by this order.

In view of the foregoing and in accordance with 33 U.S.C. §1341, RCW 90.48.120, RCW 90.48.260 Chapter 173-200 WAC and Chapter 173-201A WAC, this WQC is granted to the City of Brier for the Brierwood Park Stormwater Pond Retrofit project.

This Certification is not effective until the U.S. Corps of Engineers (Corps) Seattle District issues a Department of the Army (DA) permit for this project. WQC Order No. 21056 will remain valid for the duration of the associated DA permit. City of Brier should send a copy of the final DA permit to fednotification@ecy.wa.gov within two weeks of receiving it.

YOUR RIGHT TO APPEAL

You have a right to appeal this Order to the Pollution Control Hearings Board (PCHB) within 30 days of the date of receipt of this Order. The appeal process is governed by Chapter 43.21B RCW and Chapter 371-08 WAC. “Date of receipt” is defined in RCW 43.21B.001(2).

To appeal you must do all of the following within 30 days of the date of receipt of this Order:

- File your appeal and a copy of this Order with the PCHB (see addresses below). Filing means actual receipt by the PCHB during regular business hours.

- Serve a copy of your appeal and this Order on Ecology in paper form - by mail or in person. (See addresses below.) E-mail is not accepted.

You must also comply with other applicable requirements in Chapter 43.21B RCW and Chapter 371-08 WAC.

Address and location information.

Filing an appeal with the PCHB:

Mailing Address:

Pollution Control Hearings Board
PO Box 40903
Olympia, WA 98504-0903

Street Address:

Pollution Control Hearings Board
1111 Israel RD SW
STE 301
Tumwater, WA 98501

Serving a copy of the appeal on Ecology:

Mailing Address:

Department of Ecology
Attn: Appeals Processing Desk
PO Box 47608
Olympia, WA 98504-7608

Street Address:

Department of Ecology
Attn: Appeals Processing Desk
300 Desmond Drive SE
Lacey, WA 98503

CONTACT INFORMATION

Please direct all questions about this WQC Order to:

Doug Gresham
Department of Ecology
Northwest Regional Office
(425) 429-1846
Doug.Gresham@ecy.wa.gov.

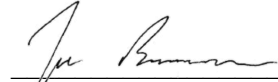
MORE INFORMATION

- **Pollution Control Hearings Board Website**
<http://www.eluho.wa.gov/Board/PCHB>
- **Chapter 43.21B RCW - Environmental and Land Use Hearings Office – Pollution Control Hearings Board**
<http://app.leg.wa.gov/RCW/default.aspx?cite=43.21B>
- **Chapter 371-08 WAC – Practice And Procedure**
<http://app.leg.wa.gov/WAC/default.aspx?cite=371-08>
- **Chapter 34.05 RCW – Administrative Procedure Act**
<http://app.leg.wa.gov/RCW/default.aspx?cite=34.05>
- **Chapter 90.48 RCW – Water Pollution Control**
<http://app.leg.wa.gov/RCW/default.aspx?cite=90.48>

- **Chapter 173.204 WAC – Sediment Management Standards**
<http://apps.leg.wa.gov/WAC/default.aspx?cite=173-204>
- **Chapter 173-200 WAC – Water Quality Standards for Ground Waters of the State of Washington**
<http://apps.leg.wa.gov/WAC/default.aspx?cite=173-200>
- **Chapter 173-201A WAC – Water Quality Standards for Surface Waters of the State of Washington**
<http://apps.leg.wa.gov/WAC/default.aspx?cite=173-201A>

SIGNATURE

Dated this 29th day of March, 2022, at the Department of Ecology, Shoreline, Washington



Joe Burcar, Section Manager
Shorelands and Environmental Assistance Program
Northwest Regional Office